

**Record of the
Proceedings of the Queensland Parliament**

...
Legislative Council
7th May 1863
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Extracted from the third party account as published in the
Courier 8th May 1863

The PRESIDENT took the chair at 10 minutes past 3 o'clock, and opened the proceedings with prayer.

PAPER.

The ATTORNEY-GENERAL laid on the table a despatch from the Duke of Newcastle respecting barracks for the military.

CONSTITUTION OF THE COUNCIL.

Dr. FULLERTON, in making the motion which stood in his name, said that the tenor of the despatch lately received by the government from his Grace the Duke of Newcastle with regard to the appointment of members to that House, appeared to him to imply that the British Crown declined to make those appointments, and consequently the duty of improving the constitution of the house must devolve on the local legislature. The Duke of Newcastle took it for granted that they were men of common sense, and being the descendants of Britons, that they would preserve intact the rights and privileges of their forefathers. Therefore, rather than see one branch of the legislature neglected, and made merely subservient to the ministry of the day, his Grace desired to leave the matter open entirely to local action. The duty consequently devolved on themselves to make such improvement in the constitution of the houses experience and the present circumstances might dictate. In asking for the appointment of a committee his object was to give hon. members an opportunity of considering maturely the whole question, and particularly of determining the best mode of election for ensuring an efficient and independent council. He was aware that the question as to which was the best of the various methods of election had been long contested, there being a great diversity of opinion as to the merits of each, and that was one of the main reasons why he asked for the appointment of the proposed committee. In order, moreover, that the matter should be fully and fairly discussed, he had proposed the largest number of members on the committee which the standing orders allowed. He concluded by moving the following Resolution, which was subsequently verbally amended so as to read as follows:—"That a select committee of six be appointed by ballot, to consider the despatch respecting the constitution of this Legislative Council, and further, that the committee report on the same."

Mr. YALDWYN did not object to the appointment of a committee to consider so important a question as the reconstruction of the council. He hoped, however, that his name would not be included in the list of members, as his opinions were already well known. He was aware that the subject was both a very difficult and a very important one, and he hoped the committee to be appointed would give it the most grave and solemn deliberation.

Mr. MACDOUGALL had no objection to the committee beyond the mere fact that he thought the appointment was premature, seeing that the despatch had not yet been placed in the hands of hon. members. The best course in his opinion was to postpone the matter for the present, particularly as the despatch might contain important information of which they were now ignorant.

Dr. FULLERTON explained that he had no desire to deal with the matter hastily. The appointment of the committee now did not necessarily compel them to act before the document had been submitted to them for consideration. He thought further that the committee was necessary, if it were only to consider the bill which had been handed to them yesterday by the hon. and learned Attorney-General.

The PRESIDENT thought it necessary to say a few words, as to a certain extent he might be considered as being personally concerned in the question before the house. With regard to hon. members not being furnished with copies of the despatch, he might state that the delay was occasioned exclusively by pressure of business in the government printing office. He believed, however, that hon. members would receive their copies in the course of to-morrow morning. Touching the nature of the despatch, he was given to understand that it had reference to the mode of appointing members to the Legislative Council. According to the act, the Governor could exercise exclusive power in appointing persons to be members of the Council, and formerly this practice, according to the usual announcements in the *Government Gazette*, had been uniformly carried out. The object, of course, in giving the Governor this power, was to ensure the independence of hon. members with reference to any ministry that might happen to be in power. The last three or four appointments, however, had been gazetted as having been made by his Excellency the Governor "with the advice of the Executive Council" thus giving the ministry of the day, as it was supposed, a direct means of influencing the constitution of the house. Finding that this mode of appointment was becoming a practice, he, in his capacity of President, deemed it expedient some time ago to bring the matter under the attention of his Excellency, and the consequence was, that his Excellency referred the question to the Secretary of State. In reply, his Grace declined to interfere, thinking it better to leave the matter to be dealt with locally. There was every reason to fear, however, that if the appointments were to be made, with the advice of the Executive Council, that house might become the tool of every ministry, seeing that every ministry under the present constitution would have an unlimited power of appointment in reference to number.

The motion was then put and passed, and the ballot resulted in the election of the following members as a committee:—Dr. Fullerton, the President, Mr. Galloway, Dr. Hobbs, Mr. Macdougall, and Mr. Harris.

INTERNATIONAL EXHIBITION.

The ATTORNEY-GENERAL moved, in an amended form, the following resolution:—“(1.) That the thanks of this house be given to Robert R. Torrens, Esquire, late Registrar-General of South Australia, for the valuable services rendered by him to the colony of Queensland previous to the introduction and during the passing of the Real Property Act of 1861. (2.) That the Legislative Assembly be invited to concur in these resolutions.” The hon. gentleman explained that Mr. Torrens had lately gone to England, but that before doing so, he had received officially the thanks of the legislatures in all the other colonies for the valuable services he had rendered in originating and carrying out successfully the Real Property Act which had proved of such great advantage to all the Australian communities. It was true that in most of the other colonies he attended personally, and gave information by lectures and otherwise, which he did not do in this colony. Still Mr. Torrens, although he did not give lectures, afforded him (the Attorney-General) a vast amount of valuable information. In fact he was in constant communication with Mr. Torrens during the whole time the Real Property Bill was under discussion, and he not only derived from him information with regard to the Real Property Act as originally passed, but also with regard to the amended act which was being passed, at the same time the Real Property Bill was under consideration here. In fact if it had not been for the valuable services thus rendered they might very possibly have been called on during the present session to pass as in South Australia an amended act. He hoped, therefore, that the house would have no difficulty in acceding to the motion.

Mr. YALDWYN remarked that Mr. Torrens might be a very good gentleman and an excellent lawyer, but at the same time he (Mr. Yaldwyn) could not forget that they had a very good and able Attorney-General, who, there was no reason to doubt, might have framed quite as good a bill without that gentleman's assistance.

Mr. GALLOWAY agreed with the Attorney-General that the colony was very much indebted to the services rendered by Mr. Torrens, and he was therefore sorry to hear the remarks offered by his hon. friend Mr. Yaldwyn.

The motion was then put and passed.

PREFERABLE LIENS ON YEARLY CROPS.

A message was received from the Legislative Assembly transmitting this bill.

On the motion of the ATTORNEY-GENERAL this bill was read a first time, ordered to be printed, and read a second time on Wednesday next.

TRANSPORTATION.

The ATTORNEY-GENERAL moved—That this house do now resolve itself into a committee of the whole, to consider of an address to her Majesty the Queen, praying that her Majesty will be graciously pleased to take such action as may relieve her loyal and dutiful subjects in the colony of Queensland from the grave apprehension with which they must ever regard proposals for the renewal or continuance of transportation to any part of this continent.

The motion was carried, and the house went into committee accordingly.

The ATTORNEY-GENERAL explained that he had placed this motion on the paper for several reasons. Firstly, because the other house had passed a similar resolution which, on an important subject of this kind, rendered it necessary that this house should not be behind in giving a similar expression of opinion; and secondly, because they had had no representative present at the late conference of delegates appointed by the other colonies, who, it would be remembered, sent home a strongly worded remonstrance against the renewal of transportation to any part of Australia. The executive, however, had done all in their power during the recess to prevent the threatened evil. The moment authentic information arrived that a learned Judge in England had recommended the revival of transportation to these colonies, the executive entered a strongly worded minute on the records, and it was also recommended that on the assembling of parliament both houses should be requested to send home addresses, having the same object in view. The circumstance of Queensland not having sent a delegate to the conference, was attributable entirely to there having been no parliamentary action taken, the news arriving during the recess. It was thought, however, that if they continued silent after the meeting of parliament, an inference might be drawn that they were not in favor of the step taken by the other colonies. He concluded by moving the adoption of an address to the Queen, the same as that carried in the other house.

Mr. HARRIS remarked that the address ought to be confined exclusively to this colony as he thought they were going beyond their limits in declaring that convicts ought not to be sent to "any part of the Australian continent."

Mr. YALDWYN thought the address, if anything, was rather too mild, inasmuch as he believed that no language could be too strong or comprehensive in protesting against the renewal of transportation. The evils resulting from such a system he well knew from many years' experience. He arrived here in 1836, with one free woman and two free men in his employ. He was not long landed when the woman was capsized by a female from the convict establishment at Parramatta. Immediately after, the two free men begged to be sent home, because they were in hourly expectation of having their throats cut.

The PRESIDENT was of opinion that the language of the petition went beyond the proper limits, more particularly as there was every reason to believe, from the assurances already received, that transportation would never be renewed to any of the colonies possessing responsible government. Such being the case, they were in a position to approach the consideration of the subject calmly, and to address the throne in the most moderate language. It appeared to him that it looked very much like dictation when they requested her Majesty not to send criminals even to the unoccupied portions of this continent. He hoped that this part of the address would be altered, although he should not himself move any amendment.

Mr. GALLOWAY agreed with the President, as he conceived the words objected to were in their nature dictatorial and altogether unnecessary, seeing that there was no probability of transportation being removed. It should be borne in mind, moreover, that convicts were even now being sent to Western Australia.

Mr. MACDOUGALL agreed with the address. If it was their wish—and he presumed it was the wish of all present—that transportation as regarded this continent should cease altogether, why not say so, and let their expression of opinion go for what it was worth.

The ATTORNEY-GENERAL insisted upon their giving an expression of opinion which would leave no doubt as to their decided disapproval of transportation to any part of the continent. The delegates of the several colonies had done so, and he thought they would only weaken the cause if they appeared to be lukewarm on the subject. With regard to the wording of the address he thought there must be some misapprehension. So far from assuming a tone of dictation, it was simply a humble prayer, emanating as stated “from her Majesty’s most dutiful and loyal subjects.” The learned gentleman then pointed out the possibility of a new convict colony being formed to the northward, in which case Queensland could not avoid an admixture of the criminal element under the ticket-of-leave system, which they all knew to prevail in penal settlements. He added further that according to rumor efforts were now being made in England to establish a penal colony somewhere to the north or north-western part of Australia.

Dr. HOBBS regarded the address as unnecessary, but at the same time he would not oppose it. He agreed, however, that those who thought it ought to be altered so as to confine it to those colonies having responsible government.

Mr. BARKER supported the address in its entirety.

Dr. FULLERTON thought they ought to look upon the address as merely sympathetic with the action of the delegates representing the other free colonies.

After some explanatory remarks from the PRESIDENT and the ATTORNEY-GENERAL, the address was carried without amendment, and the house having resumed, the report was adopted.

POSTAL TARIFF.

On the order of the day being read, the ATTORNEY-GENERAL moved—“That the commissioners to be appointed to the Inter-colonial Tariff Conference be instructed to negotiate a General Postage Tariff, similar to the rates now charged for internal postage in this colony.” Carried.

A message notifying the same was forwarded to the Assembly.

INTERNATIONAL COMMISSIONERS.

The ATTORNEY-GENERAL moved—“That the thanks of this House be given to Matthew Henry Marsh, Esq., M.P., Arthur Hodgson, Esq., and Alfred Denison, Esq., for the ability and success with which they have acted as commissioners representing this colony in England at the International Exhibition. (2.) That the Legislative Council be invited to concur in these resolutions, and that they be transmitted, by address, to his Excellency the Governor, with a request that he will be pleased to communicate them to the abovenamed gentlemen.”

Mr. ROBERTS was of opinion that, before being called on to endorse these resolutions, they ought to be favored with some report of the commissioners’ proceedings. For his own part, he had seen nothing to justify the house in giving them a vote of thanks, although, at the same time, he did not deny but what they might have merited it. At all events, he knew that the medals had not yet arrived.

Mr. BIGGE agreed with the last speaker. He agreed that the gentlemen referred to had worked hard, but he believed two of them had received medals.

Mr. MACDOUGALL was also of opinion that they ought to have received some account of these gentlemen’s proceedings.

The PRESIDENT admitted that the work had been well done, but they only knew this from common report.

Mr. YALDWYN remarked that if they were to give votes of thanks in this way they might give votes of thanks every night.

The ATTORNEY-GENERAL explained the circumstances of the case much to the same effect as they had been explained in the other house.

After some observations from Dr. HOBBS and Mr. GALLOWAY, who recommended that the motion should be postponed for further information, and the ATTORNEY-GENERAL declining, the question was put and negatived without a division.

CORONERS' INQUESTS ON FIRES BILL.

On the motion of the ATTORNEY-GENERAL, the Bill was read a third time and passed.

SCAB IN SHEEP BILL.

The ATTORNEY-GENERAL moved the second reading of this bill, explaining in detail its various provisions, and intimating his intention to introduce in committee one or two new clauses.

The motion having been carried, the committal of the bill was fixed for Wednesday next.

The House adjourned at five minutes to six, until three o'clock on Wednesday next.